

KCC 4843 (K-C 15,400)
PATENTREMARKS

The following remarks are responsive to the Office action mailed July 31, 2003.

Claims 2-4, 8-12, 17, 18, 26, 32, 33, 37, 38, 44-46, and 52 are amended herein to improve the technical format of the claims and not for reasons related to the patentability of the claims. Claim 57 has been amended to omit the recitation that the active fastening surface is secured to a first waist region with adhesive because it is submitted that such a feature is not necessary to render the claim patentable over the references of record. Claims 58-61 are added by this Amendment. Claims 2-22, 24-35 and 37-61 will be pending upon entry of this amendment.

I. Objections to Information Disclosure Statement

The Information Disclosure Statement (IDS) filed April 11, 2002 was objected to in the Office action for failing to comply with 37 CFR 1.98(a)(1) and 37 CFR 1.98 (a)(2). Applicants submit that this IDS included form PTO 892 listing the 39 references that were submitted for consideration by the Office. Enclosed is a copy of the return post card listing form PTO 892 and the 39 references that was stamped received by the Office on April 11, 2002.

Moreover, the Office action includes a copy of form PTO 892 listing the 39 references submitted with the IDS that has been initialed by the Examiner indicating consideration of the references. The inclusion of the initialed form PTO 892 from the April 11, 2002 IDS contradicts the statements on page 2 of the Office action that these references have not been considered by the Examiner and have only been placed in the file. If for some reason these references have not been

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considered, as stated in the Office action, the undersigned requests a phone call from the Examiner prior to any further notice being mailed by the Office. The undersigned will also make the references available upon request in the event the Office is unable to locate the set of references previously received by the Office.

II. Objection to Oath/Declaration

The oath or declaration has been objected to under 37 CFR 1.67(a) for failing to identify the application by application number and filing date. The Declaration and Power of Attorney submitted April 10, 2002 included five total pages and identified the application by application number and filing date on page one.

The Office action states that only pages 3-5 of the Declaration and Power of Attorney are of record in the case. Enclosed herewith is a copy of the Declaration and Power of Attorney submitted April 10, 2002 and a copy of the return postcard confirming receipt of all five pages by the Office. If the Examiner feels that this response is not adequate to overcome the objection, the undersigned requests a phone call from the Examiner prior to any further notice being mailed by the Office.

III. Response to Rejection of the Claims

Applicants respectfully request reconsideration of the rejection of claims 2-12, 14, 16-18, 20-22, 24, 26, 27, 31-35, 37-42, 44-46, 49 and 51-57 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,383,872 (Roessler et al.).

Claim 52

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The present invention is directed to a disposable absorbent article having a fastening system that is secure, relatively inexpensive, simple to manufacture, comfortable, and convenient to use.

In particular, claim 52 recites a disposable absorbent article comprising:

a first waist region;

a second waist region;

a crotch region extending longitudinally between the first and second waist regions, the absorbent article being foldable generally within the crotch region to configure said article with the first waist region in generally opposed relationship with the second waist region; and

at least one fastener comprising a single piece of flexible material having an active fastening surface adapted for anchoring to said article generally at said first waist region and for fastening to said article generally at said second waist region to secure said article on a wearer.

Claim 52 is submitted to be unanticipated by and patentable over the references of record, and in particular Roessler et al., in that whether considered alone or in combination the references fail to show or suggest a disposable absorbent article having at least one fastener comprising a single piece of flexible material having an active fastening surface adapted for anchoring to the article generally at the first waist region and for fastening to the article generally at the second waist region to secure the article on a wearer.

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Roessler et al. disclose a diaper 10 with an outer cover 11 having front and rear waistbands 12 and 13 and ear portions 17-20 at each corner of the outer cover. The two ear portions 17 and 18 of the rear waistband 13 include respective tape tabs 30 for fastening the rear waistband 13 onto the front waistband 12 about the body of the wearer. As shown in Figs. 5-9 of Roessler et al., a patch of hook material 31 is bonded to an outboard portion of each tab 30. The inner portions of the tabs 30 are bonded to the ear portions 17 and 18 of the rear waistband 13 to permanently mount the tabs to the waistband. The inner portion of each tab 30, e.g., where the tab 30 is bonded to the respective ear 17, 18 is thus clearly free of any hook material. Moreover, there is no suggestion anywhere in Roessler et al. for providing hook material at the inner portion of the tab 30. Consequently, Roessler et al. fail to disclose a single piece of flexible material having **an active fastening surface which anchors to a first region and fastens to a second region** of an absorbent article as recited in claim 52. Rather, the hook material secured to the outer portions of the tabs 30 of Roessler et al. fastens only to the front waist of the article, and does not anchor to the back waist thereof.

The other references of record also fail to show or suggest all of the features recited in claim 52. For these reasons, claim 52 is submitted to be unanticipated and patentable over Roessler et al. and the other references of record.

Claims 2-22, 53 and 54, depend directly or indirectly from claim 52, and are submitted to be patentable over Roessler et al. and the other references of record for the same reasons as claim 52.

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PATENTClaim 6

Claim 6 depends directly from claim 52 and further recites that the active fastening surface of the single piece of flexible material is substantially covered by the active fastening material. Roessler et al. and the other references of record completely any showing or suggestion of this feature. Rather, Roessler et al. disclose hook material 31 bonded to an outer portion of the tab 30 covering only a small portion of the surface of the tab. Claim 6 is therefore further submitted to be patentable over the references of record for this additional reason.

Claim 10

Claim 10 depends indirectly from claim 52 and further recites that the active fastening material is configured in at least two selective areas. Roessler et al. and the other references of record lack any showing or suggestion of this feature. Therefore, claim 10 is also further submitted to be patentable over the references of record for this additional reason.

Claim 55

Claim 55 is directed to a disposable absorbent article comprising:

- a first waist region;

- a second waist region;

- a crotch region extending longitudinally between the first and second waist regions, the absorbent article being foldable generally within the crotch region to configure said article with the first waist region in generally opposed relationship with second waist region;

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an outer cover;

a pair of ears generally at the first waist region;

and

at least one fastener comprising a single piece of flexible material having an active fastening surface adapted for anchoring to the ears and for fastening to said article generally at said second waist region to secure said article on a wearer.

Claim 55 is submitted to be unanticipated by and patentable over the references of record for essentially the same reasons as set forth above for claim 52. Specifically, Roessler et al. and the other references of record fail to show or suggest a disposable absorbent article having at least one fastener comprising a single piece of flexible material having an active fastening surface adapted for anchoring to the ears and for fastening to the article generally at the second waist region to secure the article on a wearer.

As stated above, Roessler et al. disclose fasteners in the form of tabs 30 comprising a patch of hook material 31 bonded to an outer portion of each tab. a patch of hook material 31 is bonded to an outboard portion of each tab 30. The inner portions of the tabs 30 are bonded to the ear portions 17 and 18 of the rear waistband 13 to permanently mount the tabs to the waistband. The inner portion of each tab 30, e.g., where the tab 30 is bonded to the respective ear 17, 18 is thus clearly free of any hook material. Moreover, there is no suggestion anywhere in Roessler et al. for providing hook material at the inner portion of the tab 30. Consequently, Roessler et al. fail to disclose a single piece of flexible material having ***an active fastening surface which anchors to a first region and fastens to a second region*** of an absorbent article as recited in

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claim 55. Rather, the hook material secured to the tab 30 of Roessler et al. fastens only to the front waist of the article and not to the back waist thereof.

The other references of record also fail to show or suggest all of the features recited in claim 55. For these reasons, claim 55 is submitted to be unanticipated and patentable over Roessler et al. and the other references of record.

Claims 24-35 and 56 depend directly or indirectly from claim 55 and are submitted to be patentable over Roessler et al. and the other references of record for the same reasons as claim 55.

Claim 34

Claim 34 depends directly from claim 55 and further recites that the active fastening surface of the single piece of flexible material is substantially covered by active fastening material. Roessler et al. and the other references of record lack any showing or suggestion of this feature. Rather, Roessler et al. discloses hook material 31 bonded only to an outer portion of the tab 30 covering only a small portion of the surface of the tab. Claim 34 is therefore further submitted to be patentable over the references of record for this additional reason.

Claim 57

Claim 57 is directed to a disposable absorbent article comprising:

- a first waist region;
- a second waist region;
- a crotch region extending longitudinally between the first and second waist regions, the absorbent article

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being foldable generally within the crotch region to configure said article with the first waist region in generally opposed relationship with the second waist region; and

at least one fastener comprising a single piece of flexible material having an active fastening surface adapted for anchoring to said article generally at said first waist region, and for fastening to said article generally at said second waist region to secure said article on a wearer, said fastener being secured to said article generally at said first waist region at least in part other than by said active fastening surface.

Claim 57 is submitted to be unanticipated by and patentable over the references of record, an in particular Roessler et al., in that whether considered alone or in combination the references fail to show or suggest a fastener of an absorbent article wherein the fastener comprises a single piece of material having an active fastening surface adapted for anchoring to a first waist region and fastening to a second waist region, wherein *the fastener is secured to the first waist region at least in part other than by said active fastening surface.*

In essence, the fastener recited in claim 57 has an active fastening surface adapted to anchor to the first waist region of the article. In addition to the active fastening surface anchoring to the first waist region, the fastener is also secured to the first waist region at least in part other by the active fastening surface of the fastener, such as by adhesive, thermal bonding and/or ultrasonic bonding.

As discussed previously, the tabs 30 disclosed in Roessler et al. have a patch of hook material 31 bonded only to an outer portion

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of each tab for fastening to the front waist of the article. The inner portions of the tabs 30 clearly do not have any hook material adapted for anchoring to the back waist of the article. Rather, the inner portions of the tabs 30 are simply bonded to the article without any hook material being on the surface of the inner portion of each tab. Consequently, Roessler et al. fail to show or even suggest a fastener having an active fastening surface adapted to anchor to a first waist region, and wherein the fastener is secured to the first waist region at least in part other than by the active fastening surface of the fastener.

The other references of record also fail to show or suggest all of the features recited in claim 57. For these reasons, claim 57 is submitted to be unanticipated and patentable over Roessler et al. and the other references of record.

Claims 37-51 depend directly or indirectly from claim 57 and are submitted to be patentable over Roessler et al. and the other references of record for the same reasons as claim 57.

Claim 39

Claim 39 depends directly from claim 57 and further recites that the active fastening surface of the single piece of flexible material is substantially covered by the active fastening material. Roessler et al. and the other references of record lack any showing or suggestion of this feature. Rather, Roessler et al. disclose hook material 31 bonded only to an outer portion of the tab 30 covering only a small portion of the surface of the tab. Claim 39 is therefore further submitted to be patentable over the references of record for this additional reason.

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New claim 59 is directed to a disposable absorbent article having a fastener that provides a secure, reliable closure of the article and that is easy to manufacture. More specifically, claim 58 recites:

a first waist region;

a second waist region;

a crotch region extending longitudinally between the first and second waist regions, the absorbent article being foldable generally within the crotch region to configure said article with the first waist region in generally opposed relationship with second waist region; and

at least one fastener comprising a single piece of flexible material having a fastening surface configured for releasable attachment to said article at said first waist and at said second waist region to secure said article on a wearer.

New claim 59 is submitted to be unanticipated by and patentable over the references of record, and in particularly Roessler et al., in that whether considered alone or in combination the references fail to show or suggest a disposable absorbent article having at least one fastener comprising a single piece of flexible material having a fastening surface configured for releasable attachment to the article at the first waist region and at the second waist region to secure the article to the wearer.

As discussed previously, the tabs 30 disclosed in Roessler et al. each have hook material only on an outer portion thereof for releasable fastening to the front waist and are permanently bonded at the inner portion of each tab to the back waist of the article.

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Thus, the tabs 30 of Roessler et al. are clearly not configured for releasable attachment to the back waist of the article. Moreover, Roessler et al. lack any suggestion of releasably attaching the inner portions of the tabs to the back waist of the article. Consequently, Roessler et al. fail to disclose or even suggest a fastener having a fastening surface configured for releasable attachment to both a first waist region and a second waist region of an absorbent article.

The other references of record also fail to show or suggest all of the features recited in new claim 59. For these reasons, new claim 59 is submitted to be unanticipated and patentable over Roessler et al. and the other references of record.

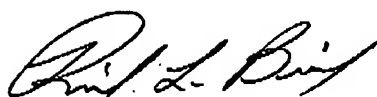
New claims 60 and 61 depend directly or indirectly from claim 59 and are submitted to be patentable over Roessler et al. and the other references of record for the same reasons as claim 59.

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CONCLUSION

In view of the foregoing, consideration and allowance of claims 2-22, 24-35, and 37-61 as now presented is respectfully requested.

Respectfully submitted,



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File KCC 4843 (KC# 15,400) Attorney RLB/psm
Client Name Kimberly-Clark Worldwide, Inc.
Inventor(s) or Mark Tom K. Wentzel, et al.
Serial No. 10/032,382 Patent/Reg. No. _____
The following has been received by the U.S. Patent and Trademark Office on the date stamped hereon:
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☐ Response to Missing Part Notice ☐ Notice of Appeal
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☐ _____ Brief ☒ IDS, PTO/SB/08A, 39 Reference(s)
☐ Check \$ _____ ☐ _____ Sheet(s) of Formal Drawing(s)
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☐ Section _____ Declaration ☐ Statement of Use
☐ Other _____ ☐ Extension of Time to Oppose
☐ Other _____

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File KCC 4843 (KC# 15,400) Attorney RLB/psm
Client Name Kimberly-Clark Worldwide, Inc.
Inventor(s) or Mark Tom K. Wentzel, et al.
Serial No. 10/032,383 Patent/Reg. No. _____

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| <input checked="" type="checkbox"/> Check \$ <u>1,428.00</u> | <input checked="" type="checkbox"/> <u>11</u> Sheet(s) of Formal Drawing(s) |
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